

MATTHEW D. POWERS (Bar No. 104795)

matthew.powers@weil.com

EDWARD R. REINES (Bar No. 135960)

edward.reines@weil.com

JEFFREY G. HOMRIG (Bar No. 215890)

jeffrey.homrig@weil.com

JILL J. HO (Bar No. 236349)

jill.ho@weil.com

WEIL, GOTSHAL & MANGES LLP

Silicon Valley Office

201 Redwood Shores Parkway

Redwood Shores, CA 94065

Telephone: (650) 802-3000

Facsimile: (650) 802-3100

Attorneys for Plaintiff-Counterclaim Defendant

NetApp, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

NETWORK APPLIANCE, INC.,

Plaintiff-Counterclaim,

v.

SUN MICROSYSTEMS, INC.,

Defendant-Counterclaim

Case No. 3:07-CV-06053 EDL

**JOINT STIPULATION AND
[PROPOSED] ORDER PERMITTING
NETAPP TO FILE A SECOND
AMENDED REPLY**

WHEREAS, on July 16, 2009, the parties reached agreement to permit certain of their respective Patent Local Rule infringement contentions in the 6053 and 5488 cases to be supplemented to narrow the scope of the contention-related disputes being submitted to the Court; and

WHEREAS, as part of this agreement, the parties agreed that NetApp may amend its Reply in the 6053 case to assert a license defense;

NOW THEREFORE, IT IS HEREBY STIPULATED by and between the parties hereto through their respective attorneys of record, subject to the Court's approval, that NetApp may file a Second Amended Reply to Sun's Amended Answer and Counterclaims, a copy of which is attached hereto as Exhibit A.

IT IS FURTHER STIPULATED that Sun waives notice and service of the amended pleading.

Dated: August 14, 2009

WEIL, GOTSHAL & MANGE LLP

/s/ Jeffrey G. Homrig
Jeffrey G. Homrig

ATTORNEYS FOR NETAPP, INC.

Dated: August 14, 2009

Respectfully submitted,

DLA PIPER LLP (US)

/s/ Carrie Williamson
Carrie Williamson

ATTORNEYS FOR SUN MICROSYSTEMS, INC.

IT IS SO ORDERED.

Dated: August 18, 2009

